

Application Serial No. 10/800,306
Filed: 03/12/2004
Amendment After Office Action
Attorney Docket No. 03-12896

REMARKS/ARGUMENTS

Applicant has studied the final Office Action of February 8, 2006 and made amendments to the claims, as indicated hereinabove, to place the application in condition for allowance or in better form for appeal. No new matter has been added.

Claims 1, 27, 29, 31, 33 and 37 have been amended to define Applicant's invention over the cited prior art. Claims 2 - 24 have been previously cancelled without prejudice. Claims 25 - 26, 28, 30, 32, 34 - 36 and 38 - 39 have been previously presented. No new claims have been added. Therefore, claims 1 and 25 - 39 remain pending.

Claim Rejections Under 35 U.S.C. §102

Claims 1 and 25 - 39 stand rejected under 35 U.S.C. §102(b) as being anticipated by Herbert et al (U.S. Patent 5,868,771). The Herbert et al reference is concerned with a scalpel blade cover which retains a scalpel blade therein. The Examiner asserts that the Herbert et al reference anticipates the claimed invention.

Applicant respectfully submits that the invention, as presently claimed, is patentably different from the scalpel blade cover of Herbert et al. Specifically, there is no teaching in Herbert et al in regard to a scalpel blade with a substantially straight blunt end being disposed opposite its sharp end, as recited in amended claim 1. Herbert et al teaches away from the claimed invention by reciting a diagonal end 302 that "is bent at approximately 20° angle relative to the body of the blade," Col. 4, lines 15 - 16, see Fig. 1.

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Applicant respectfully submits that for a reference, such as the Herbert et al reference, to function under 35 U.S.C. §102(b), the reference must within the four corners of that document disclose each and every element that is set forth in the claim against which it is applied. Furthermore, every element of the claimed invention, as recited in the claims, must be disclosed either specifically or inherently by a single prior art reference. See, *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed.Cir.1992); *Scripps*, 927 F.2d at 1576-77; *Lindemann Maschinenfabrik GMBH, v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed.Cir.1984).

Claims 25 - 39 are dependent on amended Claim 1, and contain all limitations of Claim 1. Therefore, in view of the foregoing amendments and remarks, Applicant respectfully requests withdrawal of the 102(b) claim rejections in regard to claims 1 and 25 - 39.

Conclusion

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Applicant believes that the invention, as presently claimed, is in condition for allowance. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is respectfully requested to call the undersigned attorney at the telephone number listed herein below to discuss any steps necessary to place the application in condition for allowance. Applicant respectfully requests entry of this amendment. Applicant would appreciate the prompt transmission of an Advisory Action regarding the same.

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In the event that any fees become due or payable, the Examiner is authorized to charge USPTO Deposit Account # 03-2030, as needed. A duplicate of this authorization is enclosed herewith.

Respectfully submitted,

CISLO & THOMAS LLP

DRAFT

Date: March 9, 2006


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Enclosures:

Acknowledgement Postcard

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